THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No.24024 OF 2005

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Dt: 10.11. 2005

Between:

Kadapa District Private Recognised, Aided Schools

Managements Association, Kadapa,

D.No.1/1073, Yerramukkapalli, Kadapa District.

Rep. by its General Secretary

G.Mohan Reddy, S/o.G.Subba Reddy

.. Petitioner

AND

Director of School Education, Andhra

Pradesh, Saifabad, Hyderabad. and two others.

.. Respondents

ORDER:

Petitioner is Kadapa District Private Recognised Aided Schools Managements Association. It challenges the proceedings of the Director of School Education-1st respondent dated 11.2005, through which he directed the District Educational Officers to constitute certain teams, for the purpose of undertaking rationalization work, on war footing.

A batch of writ petitions came to be filed before this Court, in relation to grant of approval for appointments, made by the Private Aided Educational Institutions against the aided vacancies. The authorities in the Education Department took a policy decision not to approve any fresh appointments till an adjustment of surplus posts in such institutions is made against existing vacancies of similar category. Writ

petitions were disposed of with certain directions. W.A.No.1578 of 2002 and batch was filed by the Government. On 31.10.2005, the learned Division Bench passed the following order:

> "Heard learned counsel for the parties.
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> Let the writ appeals come after three weeks.
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> In the meantime, the Government is directed to complete its process of rationalization and fill up all the posts, which are necessary to be filled up. If the posts are not filled up in the petitioner institutions where the need is already established, the establishments shall be at liberty to make appointments on their own after expiry of three weeks. There are some institutions where we are told that selections were made prior to 3.6.2003, which were permitted by the Director of Education as well. Those appointees shall continue to remain in service."

With a view to undertake the work of rationalization within the time frame prescribed by this Court, the 1st respondent issued the impugned proceedings constituting committees and directing further steps.

Sri P.Gangaiah Naidu, learned senior counsel appearing for the petitioner submits that in the matter of rationalization of staffing pattern in Private Aided Educational Institutions, the Government framed a Scheme in G.O.Ms.No.103, dated 05.08.2005, providing for constitution of committees comprising of District Collector, Chief Executive Officer of Zilla Parishad, Municipal Commissioner, correspondents of Aided Management concerned and the District Educational Officer. He contends that while the Government framed such a Scheme, the 1st respondent, who is an inferior authority has issued the present proceedings providing for constitution of committees with different composition. He contends that such an action is impermissible in law.

Learned Government Pleader for School Education who took notice at the stage of admission, on the other hand submits that the purport of G.O.Ms.No.3 is two fold, namely, constitution of a committee, and prescription of norms for rationalization of schools. He contends that the committee purported under G.O.Ms.No.103 by its very nature, cannot be constituted, much less be expected to complete the rationalization work, within the time frame prescribed by this Court in the batch of Writ Appeals, and

it was in this context that the present proceedings were issued enabling the District Educational Officer to constitute committees to undertake such rationalization work. He contends that the scheme contained in G.O.Ms.No.103 is not referable to any statute, and at any rate, the same norms are required to be followed by the committees constituted under the present proceedings also.

The controversy in this writ petition is about the competence of the 1st respondent to issue impugned order as well as the legality of the procedure adopted therein. So far as the first aspect is concerned, it needs to be observed that the scheme framed under G.O.Ms.No.103 is not traceable to any statutory provision. It was issued in exercise of administrative power, with the sole object of rationalizing the staffing pattern in schools. The members in the committee, provided for in the G.O.Ms.No.103, are heads of the respective departments or organizations in the district. Whatever may be the feasibility for such a committee either to meet, or to finalise the work in the normal course of things, it is next to impossibility, to expect a committee with such composition to conclude its work within the time frame prescribed by this Court.

The 1st respondent cannot be said to have usurped the powers of the Government. As long as the committee provided for under the G.O. is not constituted, being the head of the department, the 1st respondent can also shoulder the responsibility, that too in the context of the specific directions issued by this Court. At any rate, it is not pointed out that any statutory provision is violated. Further, in specific terms, the 1st respondent directed that rationalization shall be on the basis of the norms stipulated in G.O.Ms.No.103 dated 05.08.2005. Specific reference was made to the orders passed by the Division Bench of this Court.

It needs to be observed that under the A.P. Educational Institutions (Establishment, Recognition, Administration and Control of Schools under Private Managements) Rules 1993, issued in G.O.Ms.No.1, dated 01.01.1994, the Government conferred powers on the competent authority, to transfer the surplus staff from one aided institution to another institution, subject to certain conditions.

The present exercise is a part of it. It hardly needs any emphasis that the respondents shall be under obligation to follow the norms stipulated under the said rules as well as those in G.O.Ms.No.103, while finalizing the mode of rationalization. It shall also be open to the members of the petitioner-society to put forward their contentions before the concerned agencies. It is only after taking the same into account, that the competent authority shall be entitled to pass the requisite orders as provided for under the Rules.

For the foregoing reasons, the writ petition is disposed of directing that the exercise undertaken through the impugned order shall be strictly in accordance with the norms prescribed under G.O.Ms.No.103 as well as the Rules framed in G.O.Ms.No.1, dated 01.01.1994. If any members of the petitioner feel aggrieved by the ultimate orders that may be passed by the respondents, it shall be open to them to canvass the same before the competent authority. There shall be no order as to costs.

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L.NARASIMHA REDDY,J

Date:10.11.2005

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